IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 23092 of 2002

Between:

M/s. Mahalaxmi Motors Ltd.,

Hasmathpet Vilalge,

Bowenpally Mandal Secunderabad rep. by its Managing Director,

Sri Mahendra C. Mehta, S/o. C.P. Mehta, aged 59 years,

Occ: Business, 1-7-234/38, (A4/2) Chandralok Complex,

Mahatma Gandhi Road,

Secunderabad.

..... PETITIONER

AND

The Indian Overseas Bank,

Raj Bhavan Road Branch, Somajiguda, Hyderabad rep. by its Branch Manager.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an Order, direction or Writ more particularly one in the nature of Writ of Certiorari or any other appropriate Writ, Order or direction of the like nature declaring the action of the Respondent Bank in issuing the Notice dated 19.10.2002 issued

under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcements of Security Interest Ordinance – 2002, which was served on the petitioner company on 28.10.2002 as illegal arbitrary and against the principles of natural justice and violative of the provisions of the Securitisation and Reconstruction of Financial Asets and Enforcement of Security Interest Ordinance-2002 and Article 21 and Article 300-A of the Constitution of India and quash the same and direct the Respondent bank not to enforce the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Ordinance – 2002 in view of the pendency of O.A. No.400 of 2000 on the file of the Hon'ble Debt. Recovery Tribunal, Hyderabad and to pass such other order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.T.SUDHAKAR REDDY

Counsel for the Respondent: MR.P.BADRI PREMNATH

The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 [MARIDA CHEMICALS LTD v UNION OF INDIA AND ORS], challenge to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason, relief prayed for in this Writ petition cannot be granted. Writ petition is, therefore, dismissed.

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DEVINDER GUPTA, CJ

Date: 10th August, 2004

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C.V.RAMULU,J

Pnb

To

1. The Branch Manager,

Indian Overseas Bank,

Raj Bhavan Road Branch, Somajiguda, Hyderabad.

2. The Debts Recovery Tribunal, Hyderabad.

3.Two C.D. copies